

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (FDS)

THIS DOCUMENT RELATES TO:

All Actions

**JOINTLY PROPOSED AGENDA  
FOR THE JULY 18, 2013 STATUS CONFERENCE**

The Plaintiffs' Steering Committee, Ameridose LLC, New England Compounding Pharmacy, Inc. (through both the Trustee and counsel), and Official Committee of Unsecured Creditors (through counsel)<sup>1</sup> jointly propose the following agenda for the July 18, 2013 status conference:

1. Status of Plaintiffs' Steering Committee's discovery efforts
2. Conduct of discovery order
  - a. Service of discovery documents (subpoenas)
  - b. Distribution of documents received pursuant to subpoenas
3. Status of bankruptcy proceedings
  - a. Bar date motions
4. Liaison Counsel for Unaffiliated Defendants and/or Unaffiliated Defendants Committee
5. Mechanism for collection and sharing of plaintiffs' medical information, including product identification
6. Pending motions
  - a. Motions to Dismiss
    - i. Alunus Pharmaceutical, LLC [Dkts. 32, 34, and 95]
    - ii. Carilion Surgery Center New River Valley LLC [Dkt. 178]
  - b. Motions opposing Case Management Order [Dkts. 188, 189, 201, 210, 223, and 226] – May be moot

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<sup>1</sup> All defendants whose counsel have filed notices of appearance in the MDL were provided an opportunity to comment on the agenda.

- c. Requests for preservation of evidence [Dkt. 234, 264, 289, and 315]
    - i. Trustee response [Dkt. 319]
    - ii. U.S. Statement of Interest [Dkt. 320]
  - d. Virginia plaintiffs' motions seeking interlocutory appeal or to alter judgment [Dkts. 195-196 and 211-212]
    - i. Trustee's opposition [Dkt. 284] and Creditors' Committee Joinder [Dkt. 285]
  - e. ARL's motion for protective order [Dkt. 276]
7. Responses to the PSC's subpoenas
- a. Mechanism for access to information by defendants to material produced in response to subpoenas
  - b. Objections:
    - i. Neurosurgical Group of Chatanooga [Dkt. 218]
    - ii. St. Thomas Outpatient Neurosurgical Center LLC [ Dkt. 219]
    - iii. Specialty Surgery Center PLLC [Dkt. 220]
    - iv. Howell Allen Clinic, A Professional Corporation [Dkt. 221]
    - v. Dr. Donald Jones [Dkt. 222]
    - vi. Southeast Michigan Surgical Hospital [Dkt. 236]
    - vii. Michigan Pain Specialists PLLC [Dkt. 241]
    - viii. Erlanger Health System, Inc. [Dkt. 246 and 256]
    - ix. HCA Health Services of Tennessee [Dkt. 260]
    - x. Surgical Park Center Ltd. [Dkt. 261]
    - xi. Forsyth Street Ambulatory Surgery Center LLC [Dkt. 279]
    - xii. Neuromuscular and Rehabilitation Associates of Northern Michigan [Dkt. 288]
    - xiii. Greenspring Surgical Center [Dkt. 303]
    - xiv. Rochester Brain & Spine Neurosurgery & Pain Management, LLC [Dkt. 314]
  - c. Objections and Motions to Quash:
    - i. Liberty Industries, Inc. [Dkt. 231]<sup>2</sup>
    - ii. Thorek Memorial Hospital [Dkt. 244]

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<sup>2</sup> Agreement has been reached with Liberty regarding subpoena response [Dkt. 323] but this motion will remain pending pursuant to compliance.

- iii. Surgery Center Associates of High Point, LLC [Dkt. 250]
- iv. Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC, Premier Orthopaedic Associates Surgery Center, LLC, and Kimberly Yvette Smith MD [Dkt. 252]
- v. Baltimore Pain Management Center [Dkt. 254]
- vi. Carilion Surgery Center New River Valley LLC [Dkt. 257]
- vii. Martin Kelvas, Howell Allen Clinic, A Professional Corporation, and St. Thomas Outpatient Neurosurgical Center, LLC [Dkt. 266]<sup>3</sup>
- viii. North Carolina Orthopaedic Clinic [Dkt. 259]
- ix. South Bend Clinic LLP [Dkt. 269]
- x. South Jersey Healthcare [Dkt. 273]
- xi. Surgery Center of Wilson, LLC [Dkt. 275]
- xii. Insight Health Corp [Dkt. 300]
- xiii. Howell Allen Clinic [Dkt. 304]
- xiv. St. Thomas Outpatient Clinic [Dkt. 305]
- xv. Donald Jones [Dkt. 306]
- xvi. Neurosurgical Group of Chattanooga [Dkt. 307]
- xvii. Specialty Surgery Center, PLLC [Dkt. 308]
- xviii. Dr. O'Connell's Pain Care Center [Dkt. 311]
- xix. Pain Consultants of West Florida [Dkt. 317]

Dated: July 17, 2013

Respectfully submitted,

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<sup>3</sup> Martin Kelvas withdraws his objection [Dkt. 321].

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**CERTIFICATE OF SERVICE**

I, Thomas M. Sobol, hereby certify that I caused a copy of the above Jointly Proposed Agenda for the July 18, 2013 Status Conference to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: July 17, 2013

/s/ Thomas M. Sobol  
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